



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary

DATE: October 28, 2015

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Ben Brancel, Secretary *Ben Brancel*
Steve Ingham, Division of Food Safety Administrator *Steve Ingham*

SUBJECT: Food Safety Modernization Act (FSMA) Update

PRESENTED BY: Steve Ingham

REQUESTED ACTION:

None (update only)

SUMMARY:

The first two (of seven) final rules have been issued to implement the FDA Food Safety Modernization Act (FSMA). The published rules are Preventive Controls – Human Food, and Preventive Controls – Food for Animals. Publication of the final rule on Produce Safety is imminent. This presentation will highlight key provisions of the Preventive Controls – Human Food rule.

The new rule spells out updated Current Good Manufacturing Practice (cGMP) standards and requires legally-defined “facilities” to conduct a hazard analysis, develop a written food safety plan, and implement preventive controls that mitigate identified food safety hazards. The population of establishments legally considered a “facility” and subject to the new rule (generally food plants and warehouses) is not identical to the population of Wisconsin-licensed food processing plants, dairy plants, and food warehouses because several state-licensed firms may be “qualified facilities” and therefore not subject to large parts of the new rule. Many state-licensed food warehouses will not be qualified facilities but will fall under modified requirements in the rule intended specifically for warehouses. This situation could lead to Wisconsin firms being subject to differing federal and state food safety rules, and state inspectors having to learn additional regulations to be enforced when conducting FDA-contract inspections. Further complicating the situation, it is hoped that full compliance with the Pasteurized Milk Ordinance will be equated by the FDA as compliance with the rule, but definitive guidance on this matter is unlikely for several months.

One of the Division’s long-standing goals is to exercise regulatory oversight at least as rigorous as FDA oversight, in order to be a full partner in an integrated national food safety regulatory system. However, the Division also intends to minimize confusion for industry and our staff. This presentation will include an overview of the Division’s intention to revise existing state rules in a way that reduces confusion for industry and staff while ensuring state rules are appropriately rigorous.

Training of our state’s regulators will be undoubtedly be essential as the new FSMA Preventive Controls – Human Food rule is implemented. The Division has not yet received guidance on training availability.

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